

national bank's error or mishandling of a retail forex transaction.

(e) *Certain guaranties unaffected.* This section does not affect any guarantee entered into prior to the effective date of this part, but this section does apply to any extension, modification, or renewal thereof entered into after such date.

§ 48.12 Authorization to trade.

(a) *Specific authorization required.* No national bank may directly or indirectly effect a retail forex transaction for the account of any retail forex customer unless, before the retail forex transaction occurs, the retail forex customer specifically authorized the national bank to effect the retail forex transaction.

(b) *Requirements for specific authorization.* A retail forex transaction is "specifically authorized" for purposes of this section if the retail forex customer specifies:

(1) The precise retail forex transaction to be effected;

(2) The exact amount of the foreign currency to be purchased or sold; and

(3) In the case of an option, the identity of the foreign currency or contract that underlies the option.

§ 48.13 Trading and operational standards.

(a) *Internal rules, procedures, and controls required.* A national bank engaging in retail forex transactions must establish and implement internal policies, procedures, and controls designed, at a minimum, to:

(1) Ensure, to the extent reasonable, that each retail forex transaction that is executable at or near the price that the national bank has quoted to the retail forex customer is entered for execution before any retail forex transaction for:

(i) A proprietary account;

(ii) An account for which a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(iii) An account in which a related person has an interest, if the related

person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account; or

(iv) An account in which a related person may originate orders without the prior specific consent of the account owner, if the related person has gained knowledge of the retail forex customer's order prior to the transmission of an order for a proprietary account;

(2) Prevent national-bank related persons from placing orders, directly or indirectly, with another person in a manner designed to circumvent the provisions of paragraph (a)(1) of this section; and

(3) Fairly and objectively establish settlement prices for retail forex transactions.

(b) *Disclosure of retail forex transactions.* No national bank engaging in retail forex transactions may disclose that an order of another person is being held by the national bank, unless the disclosure is necessary to the effective execution of such order or the disclosure is made at the request of the OCC.

(c) *Handling of retail forex accounts of related persons of retail forex counterparties.* No national bank engaging in retail forex transactions may knowingly handle the retail forex account of an employee of another retail forex counterparty's retail forex business unless the national bank:

(1) Receives written authorization from a person designated by the other retail forex counterparty with responsibility for the surveillance over the account pursuant to paragraph (a)(2) of this section;

(2) Prepares immediately upon receipt of an order for the account a written record of the order, including the account identification and order number, and records thereon to the nearest minute, by time-stamp or other timing device, the date and time the order was received; and

(3) Transmits on a regular basis to the other retail forex counterparty copies of all statements for the account and of all written records prepared upon the receipt of orders for the account pursuant to paragraph (c)(2) of this section.